

**THE DEPARTMENT'S FINAL DECISION IN THIS MATTER
OF APPLICATION FOR TRANSFER NOS. 4221, 4222, 4223,
4224, 4225, 4226 AND 4227 IN THE NAME OF
SAGEWILLOW INC.**

**HAS BEEN APPEALED TO THE DISTRICT COURT
IN BUTTE COUNTY**

PLEASE SEE ATTACHED PETITION FOR JUDICIAL REVIEW

COPY

Judge Henderson

RECEIVED

MAY 6 - 1996

Department of Water Resources

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BUTTE

SAGEWILLOW, INC.,)
)
Petitioner,)
)
v.)
)
IDAHO DEPARTMENT OF)
WATER RESOURCES,)
)
Respondent.)
_____)

Case No. 34-96-39

PETITION FOR JUDICIAL
REVIEW

COMES NOW, Sagewillow, Inc., Petitioner herein, by and through its
attorneys of record, and files this Petition for Judicial Review pursuant to Idaho Code
§§67-5201, *et seq.* and I.R.C.P. Rule 84.

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1 e. Does clear and convincing evidence exist to establish that water right
2 nos. 33-02086, 33-07018, 33-02057 and 33-02083 have been partially forfeited?

3 f. Is resumption of use an available defense to partial forfeiture of
4 water right nos. 33-02086, 33-07018, 33-02057 and 33-02083?
5

6 g. Did the Department err in concluding that Petitioner has forfeited
7 surface and ground water rights, other than subirrigation, in excess of those used to
8 irrigate 1412 acres?

9 h. Did the Department err in limiting Petitioner to a diversion rate of
10 .02 cfs per acre, or a total of 28.24 cfs?

11 i. Did the Department err in limiting Petitioner to an annual volume
12 of 4,942 acre feet?
13

14 j. Did the Department err in limiting Petitioner to an annual
15 consumptive volume of 3,530 acre feet?

16 k. Did the Department err in requiring Petitioner to submit a plan
17 identifying 1412 acres that will be irrigated and making such plan subject to review and
18 comment by the protestants and approval by the Department?
19

20 l. Are the Department's findings, inferences, conclusions and decisions
21 in violation of constitutional or statutory provisions?

22 m. Are the Department's findings, inferences, conclusions and decisions
23 in excess of the statutory authority of the Department?

24 n. Are the Department's findings, inferences, conclusions and decisions
25 supported by substantial evidence on the record as a whole?
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27 o. Are the Department's findings, inferences, conclusions and decisions
28 arbitrary, capricious, or an abuse of discretion?

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6. A transcript of the proceeding is necessary pursuant to I.R.C.P. Rule 84(j).

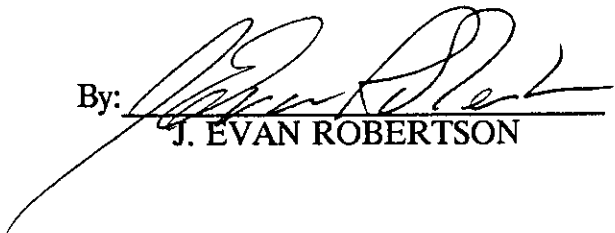
7. A record consistent with I.C. § 67-5275 and I.R.C.P. Rule 84(n) is necessary for this judicial review.

8. Petitioner requests a briefing schedule and the establishment of a date for oral argument consistent with I.R.C.P. Rule 84(v) and 84(w).

9. Petitioner requests that the decision of the Department be reversed.

DATED this 3rd day of May, 1996.

ROSHOLT, ROBERTSON & TUCKER

By: 

J. EVAN ROBERTSON

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SAGEWILLOW, INC.,

Petitioner,

v.

IDAHO DEPARTMENT OF
WATER RESOURCES,

Respondent.

Case No. _____

PROOF OF SERVICE

I hereby certify that on this 3rd day of May, 1996, I served a copy of the
Petition for Judicial Review filed in this case by U.S. Mail, postage prepaid, to the
following:

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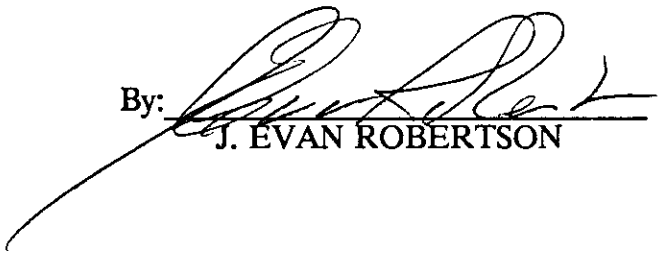
Karl Dreher, Director
Idaho Department of Water Resources
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